

**AFFIDAVIT IN SUPPORT FOR CRIMINAL COMPLAINT**

I, Angel M. Marcano being first duly sworn, do here by depose and state as follows:

**AGENT BACKGROUND**

1. That I have been employed as a Special Agent/Criminal Investigator with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Office of the Special Agent in Charge in San Juan, Puerto Rico (SAC San Juan) since October 2015. Prior to working for ICE, HSI in SAC San Juan, PR; I worked as a Special Agent/Criminal Investigator for the Department of Defense (DoD), Defense Finance and Accounting Service (DFAS) in Indianapolis, Indiana from April 2010 to October 2015.

2. That I am currently assigned to the Office of the Resident Agent in Charge in Fajardo, PR (RAC Fajardo). As a Special Agent/Criminal Investigator, my duties and responsibilities include conducting investigations of alleged manufacturing, distribution and/or possession of controlled substances (Title 21, United States Code, Section 841(a)(1), importation of controlled substances (Title 21, United States Code, Section 952(a), smuggling of goods into the United States (Title 18, United States Code, Section 545), and other related offenses. I attended the Criminal Investigators Training Program (CITP) and the Homeland Security Investigations, Special Agent Training (HSI/SAT) at the Federal Law-Enforcement Training Center in Glynco, Georgia.

3. Because this Affidavit is being submitted for a limited purpose, I have not included details of every aspect of this investigation. I am thoroughly familiar with the information contained in this Affidavit, either through personal investigation or discussions with other law enforcement officers who have interviewed individuals or personally have obtained information, which they in turn have reported to me.

4.

## **INVESTIGATION**

5. On January 23, 2020, Customs and Border Protection (CBP), Marine Interdiction Agents (MIA's) from Fajardo, PR contacted HSI Agents from RAC Fajardo requesting support in relation to an incident involving the seizure of a boat and cocaine at the Maternillo Ward in Fajardo, PR. Soon thereafter, HSI Agents arrived at the scene and met with CBP Supervisory MIA Melvin Garcia (MIA Garcia) and MIA Task Force Officer Kelvin Nieves (TFO Nieves). The MIA's advised HSI Agents that during surveillance of the area, TFO Nieves had observed a white vessel entering the Maternillo Ward area landing near the shore. The CBP MIA's further explained that when they approached the area where the vessel landed, they encountered three male subjects and one female subject unloading several black colored bags from the vessel into a white color BMW SUV type vehicle. The MIA's said that they identified themselves as police and gave commands to the subjects to stop what they were doing. TFO Nieves related that at that same moment, one of the male subjects pointed a gun at him. He further explained that the subject was holding the gun in his left hand when he pointed it at him. TFO Nieves said that he feared for his safety and was forced to repel the subject's aggression by firing several shots at him with his government issued service weapon. SMIA Garcia later described the female who fled driving the BMW vehicle as a slim, white color female with long black hair, wearing dark clothing.

6. After shots were fired, the three male subjects fled the scene on foot and entered an abandoned structure nearby, while the female subject got into the BMW vehicle and fled as the MIA's attempted to stop them. As this unfolded, the MIA's observed one of the black bags inside the vehicle as it fell to the ground after the driver failed to close the tail gate door of the vehicle. The MIA's said they also observed other black colored bags inside the trunk of the vehicle as it fled from the scene. TFO Nieves later related that the female who fled was a slim, white female with long black hair. Furthermore, the contents of the black bag that fell from the vehicle were inspected by SMIA Garcia at the scene. The bag contained several vacuumed sealed white color brick shaped objects. SMIA Garcia advised he identified the objects as consistent with being bricks of cocaine, based on his training and experience, and retained them as part of the investigation.

7. Puerto Rico Police Department (PRPD) Agents Simmons, Johnny and Berberena from the Fajardo precinct arrived at the scene in the Maternillo Ward after learning via police radio of TFO Nieves requesting assistance and firearm discharge. The PRPD Agents along with MIA's pursued the subjects after they entered an abandoned structure nearby. PRPD Agents followed the individuals into the structure and conducted a search of the premises. After several minutes of searching the structure, they located and apprehended the three male individuals in a bedroom closet, on the second floor. The subjects had visible lacerations with blood on their lower extremities, and they were also all wet, and covered with sand and dirt all over their bodies when they were found by the PRPD Agents. The three subjects were later identified as Steven Michael RODRIGUEZ-Garcia (RODRIGUEZ), Orlando GUZMAN-Garcia (GUZMAN), and Arnaldo DE LEON-Soler (DE LEON). Additionally, while responding to the scene and canvassing the area in response to the incident, MIA's and HSI Agents recovered three cellphone devices in and around the area where the subjects were seen standing and running after fleeing from law enforcement responders. No firearm was recovered from the scene or on the subjects during the encounter. The abandoned cellphone devices were seized by HSI for further investigation. PRPD Agents subsequently took the subjects back to the area where SMIA Garcia was located and he (SMIA Garcia) positively identified the three subjects apprehended as the same three males persons he had observed earlier fleeing from the scene on foot after he and TFO Nieves had identified themselves as the police issued commands to stop, which the subjects ignored.

8. Further inspection of the bag was later conducted by Agents at the MIA's Ceiba Office and this inspection revealed the bag contained a total of 34 kilogram sized and shaped bricks of cocaine. A total weight for the 34 bricks is pending and will be provided once the bricks are processed by a CBP Seized Property Custodian in San Juan, PR. A PRPD Agent field tested a sample from one of the seized bricks removed from the bag, resulting in a positive test for the presence of cocaine.

9. The vessel and its contents were inspected by SMIA Garcia and other Agents in Ceiba, PR. The boat is described as a 26-foot center console style vessel, white in color bearing vessel registration number PR-4316-BB, with two 90 horsepower Yamaha outboard engines, gray in color. Record checks for the registered owner of the vessel were conducted in a Puerto Rico

Department of Natural and Environmental Resources database (DRNA in Spanish). DRNA records revealed the registered owner is a subject identified as Leonardo A. RIVERA- Lopez from Ciales, PR. A further inspection of the vessel by the Agents revealed it contained three red color gasoline cans and 16 car batteries tied with red and blue color ropes, one Garmin GPS Eco Map Plus 44 cv device, and a knife, among other things.

10. Based on the Agents experience, they know that car batteries and ropes are used by drug smugglers to tie around bales or bags containing narcotics and jettison the drugs into the ocean if encountered by law enforcement at sea. The Agents took the vessel, its contents and the three male subjects to Ceiba, PR for investigation and processing. On the evening of January 23, 2020, PRPD Sargent Richard Medina badge # 8-29117, and narcotics detection Canine (K-9) Officer Bax badge # 33099 also assisted MIA's and HSI Agents with conducted a drug sniff and further inspection of the vessel. PRPD K-9 Bax has been trained and certified in the detection of narcotics. During said inspection, K-9 Bax alerted positive to narcotics odor in the vessel.

11. On the same date, HSI Special Agent Angel Marciano (SA Marciano) and SMIA Garcia interviewed RODRIGUEZ, GUZMAN, and DE LEON. Prior to commencing the interview of each subject, SA Marciano and SMIA Garcia obtained biographical information. Then the Agents advised each subject individually of their constitutional rights in the Spanish language using an HSI Statement of Rights Form. The individuals acknowledged that they understood their rights by placing their initials on the left margin of the form. Each subject invoked their right to consult with an attorney before speaking again with the Agents or answering any further questions. As such, SA Marciano and SMIA Garcia terminated the interviews with the subjects.

12. During post-event investigation and concurrent with the subject interviews, HSI SA Jose Lebron reported to SA Marciano that the PRPD Fajardo precinct received a call at approximately 9:45 a.m., from a person reporting a stolen white BMW, model X5 sports utility vehicle, which was consistent with the description of the white BMW involved in the incident with MIA's in Maternillo Ward. PRPD Agents provided SA Lebron the victim's address at Urbanization Veve Calzada in Fajardo, PR. Record checks were conducted, and the victim

was identified as Cinthia Ivette ESCOBAR- Ramos. SA Lebron along with Agent Enrique Morey Feliz from the PRPD Stolen Vehicle Division and HSI SA David Hanan (SA Hanan) responded to the victim's address to obtain more information about the incident involving her stolen vehicle. Upon arriving, the Agents asked ESCOBAR how long ago she had purchased her vehicle. She related she bought the car approximately one month ago for \$10,500, in a private cash transaction. When asked how long she had lived at her current residence, ESCOBAR stated she had moved to Urbanization Veve Calzada approximately one month ago. Agents then asked her what she did for a living, and she explained that she was currently unemployed.

13. The Agents then asked her about a Jeep vehicle parked on the driveway of her residence, black in color and bearing PR registration number IEP-860. ESCOBAR advised that the person who had sold her the BMW X5 SUV had loaned to her the Jeep because her BMW vehicle had mechanical issues and was being fixed at a mechanics shop. However, she could not provide specific information about the mechanics shop her vehicle had been taken to for repair. HSI Agents queried the Jeep's tag on the DTOP database and identified the registered owner as Ramon Luis Cruz Ortiz from Yabucoa, PR.

14. Upon further inquiry about her stolen vehicle, ESCOBAR's demeanor changed, and she became evasive and guarded. The Agents further requested from ESCOBAR the vehicle registration to obtain pertinent information for their report, but she stated she did not have the documents with her and that her purse had been left in the vehicle before it was stolen, so she had lost access to all her documents. To date, the Agents have not been able to locate ESCOBAR's purported stolen vehicle.

15. SA Lebron requested consent from ESCOBAR to search her home. ESCOBAR agreed verbally and provided her consent in writing by signing an HSI consent to search form allowing HSI Agents Lebron and Hanan to search the premises. SA Hanan later reported that during the search of the premises he found the vehicle registration and other documents pertaining to the BMW vehicle on top of a nightstand in ESCOBAR's bedroom. SA Hanan further advised that the registration and the other documents were visibly wet and deteriorated. Afterwards, the Agents found a back pack in another room of the residence which contained several items,

including a cellphone. When ESCOBAR was asked if the phone belonged to her, she advised the Agents that the cellphone belonged to her daughter and said the daughter was not giving consent for searching that phone. SA Lebron and SA Hanan explained to ESCOBAR that if the phone belonged to her daughter and she was a minor, she (ESCOBAR) could give consent to the Agents for a search of the contents stored within the cellphone. ESCOBAR advised the Agents that she had lied to them about the ownership of the cellphone in question and then admitted that the device belonged to her. She then agreed to a search of the device and provided her consent to the Agents verbally and in writing by signing an HSI consent to search form that allowed the HSI Agents to search the contents of her cellphone.

16. During the search of ESCOBAR's cellphone HSI Agents observed pictures of various black color bags that resembled the one seized at the crime scene just hours prior. The bags appeared in the picture tied with a blue color rope like the one found in the vessel that was tied to the car batteries, among other things of interest, including pictures of large amounts of bulk cash. As a result, SA's Lebron and Hanan advised ESCOBAR of her constitutional rights in the Spanish language. ESCOBAR acknowledged that she understood her rights and advised the Agents she was invoking her rights to an attorney and was not speaking with the Agents any further or answering any more questions. SA Lebron and SA Hanan then detained ESCOBAR and transported her to the MIA's Ceiba office for further investigation. Upon ESCOBAR's arrival at the MIA's Ceiba office, SMIA Garcia immediately identified her as the same female who fled from the scene that day in the Maternillo Ward and he advised the female was the person driving the white BMW after he had given her commands to stop, which she ignored.

17. HSI Agents Lebron and Hanan also took the black color Jeep, bearing PR tag # IEP-860 to the MIA's Ceiba office for further investigation. On the evening of January 23, 2020, PRPD Sargent Richard Medina badge # 8-29117, and narcotics detection canine (K-9) officer Bax badge # 33099 conducted a drug sniff of the Jeep vehicle. PRPD K-9 Bax has been trained and certified in the detection of narcotics. During said inspection, K-9 Bax alerted to a narcotics odor in the rear passenger side area of the vehicle. Based on the above, HSI Fajardo has retained the Jeep vehicle pending the application for a search warrant to conduct a full search of the vehicle and its contents to determine if any narcotics are stashed within any of the



vehicles' compartments. *HSI Agents obtained consent from the owner, Ramon Cruz Ortiz to take vehicle for further investigation.*

18. HSI Agents conducted criminal history checks for RODRIGUEZ, GUZMAN, DE LEON and ESCOBAR in NCIC and the Puerto Rico Criminal Justice Information System (SIJC). The NCIC system revealed RODRIGUEZ had a prior conviction for bank robbery and has been on supervised release since May 9, 2019, by the U.S. Probation Office, San Juan, PR. NCIC and SIJC records checks on GUZMAN, DE LEON and ESCOBAR revealed no identifiable criminal history.

### CONCLUSION

19. Based on my experience, training, and knowledge about the facts concerning this investigation, I respectfully believe that enough probable cause exists to show that there is material evidence present of the commission of a violation of federal laws by RODRIGUEZ, GUZMAN, DE LEON and ESCOBAR, to wit: Title 21 U.S.C. § 841(a)(1), and (b)(1)(A)(ii), possession with intent to distribute a controlled substance, and possession of five (5) kilograms or more of a mixture or substance containing a detectable amount of Cocaine, and Title 21 U.S.C. § 846 (Conspiracy to possess with intent to distribute a narcotic drug controlled substance into the United States).

20. I declare, under penalty of perjury, that the forgoing is true and correct to the best of my knowledge and belief.



Angel Marciano Special Agent  
ICE-Homeland Security Investigations

Subscribed and sworn to before me this 24<sup>th</sup> day of January 2020, in San Juan, Puerto Rico.



s/Marshal D. Morgan  
U.S. Magistrate Judge